

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS,
SAN ANTONIO DIVISION**

BRASS CREEKSIDE, LP,

Plaintiff,

v.

AMGUARD INSURANCE COMPANY,

Defendant.

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Civil Action No. 5:20-cv-583

NOTICE OF REMOVAL

Defendant AmGUARD Insurance Company (“AmGUARD”) submits this Notice of Removal to the United States District Court for the Western District of Texas, San Antonio Division, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446.

1. On April 3, 2020, Plaintiff Brass Creekside, LP filed an *Original Petition* in the 224th Judicial District Court of Bexar County, Texas, Case No. 2020CI06647. **(Exhibit C)** Plaintiff asserts claims against AmGUARD for negligence, breach of an insurance contract, violations of the Texas Insurance Code and Texas Deceptive Trade Practices Act, and fraud. *Id.*

2. AmGUARD was served with process on April 16, 2020, when it received a Summons and Plaintiff’s *Original Petition* through its registered agent, C T Corporation System, 1999 Bryan Street, Suite 900, Dallas, TX 75201. (*Id.*)

3. This Notice of Removal is timely filed within 30 days of April 16, 2020, as required by 28 U.S.C. § 1446(b). Furthermore, AmGUARD files this removal less than one year after this lawsuit commenced in state court. Thus, this Notice also complies with the timeliness requirements of 28 U.S.C. § 1446(c)(1).

4. The United States District Court for the Western District of Texas, San Antonio Division, embraces Bexar County, Texas, in which the state court action is now pending. Thus, this lawsuit is properly removed to this Court pursuant to 28 U.S.C. § 1441(a).

5. For purposes of diversity jurisdiction, a corporation is “a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business....” 28 U.S.C. § 1332(c)(1).

6. Plaintiff is a corporation that is both incorporated, and has its principal place of business in, Texas. Therefore, it is a citizen of Texas.

7. AmGUARD is a corporation that is both incorporated, and has its principal place of business in, Pennsylvania. Therefore, it is a citizen of Pennsylvania.

8. The amount in controversy exceeds \$75,000.00. Plaintiff seeks damages for building repairs that it estimates at more than \$1,000,000. Plaintiff also seeks attorneys’ fees, taxable costs, and interest. (*Id.*, prayer for relief.)

9. This Court has subject matter jurisdiction under 28 U.S.C. § 1332(a) because (1) there is complete diversity of citizenship between Plaintiff and AmGUARD; (2) the amount in controversy exceeds \$75,000, exclusive of interests and costs; and (3) all other requirements for removal have been satisfied.

10. On April 25, 2020, AmGUARD filed its general denial to Plaintiff’s *Original Petition* in state court; therefore, pursuant to Fed.R.Civ.P. 81(c)(2), it is not required to file another responsive pleading in this Court.

11. Pursuant to 28 U.S.C. § 1446(d), this Notice has been sent to all parties and has been filed with the state court clerk’s office. AmGUARD has also included a copy of the state

court docket sheet (**Exhibit B**) with this Notice, as required by LR81. No hearing has been set in state court.

12. Pursuant to 28 U.S.C. § 1446(a) and LR81, a copy of all process, pleadings, and orders served upon AmGUARD are also submitted.

WHEREFORE, AmGUARD hereby removes this action from the 224th Judicial District Court of Bexar County, Texas to the United States District Court for the Western District of Texas, San Antonio Division.

Dated: May 12, 2020.

Respectfully submitted,

GORDON & REES

/s/ Robert A. Bragalone

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ATTORNEYS FOR DEFENDANT

AMGUARD INSURANCE COMPANY

CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served May 12, 2020, with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(b)(1). Any other counsel of record will be served by electronic mail, facsimile transmission and/or first class mail on this same date, including the Bexar County District Clerk and Plaintiff's counsel via e-filing, as follows:

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